IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Bail Appl..No. 7111 of 2007(I)

SC. 505/06 OF ADDL. SESSIONS COURT, (ADHOC) FAST TRACK THRISSUR.

PETITIONERS/ACCUSED NOS.18 AND 33
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1. IMTHIYAS,S/O.HAMSA, KATTIL HOUSE MATTUMMEL, CHAVAKKAD.

2. NAJEEB, S/O.KUNHIMOIDEEN CHOKAKUPPATH HOUSE, VALAPPAD.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA THROUGH THE SUB INSPECTOR OF POLICE, VALAPPAD POLICE STATION REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7111 OF 2007

Dated this the 21st day of November, 2007

O R D E R

The petitioners are accused in a pending sessions case where they face allegations for offences punishable, inter alia, under section 308 read with 149 IPC. Consequent to non appearance of the petitioners before the learned Sessions Court, warrants of arrest have been issued against the petitioners. They apprehend imminent arrest.

2. According to the learned counsel for the petitioners, the petitioners are absolutely innocent. Their absence earlier was not wilful or deliberate. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Sections 438 and/or 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioners must be directed to surrender before the learned Magistrate and seek regular bail in the ordinary course.

4. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in **Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339]**.

5. In the result, this petition is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

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